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FEB - 2 2012

FCC Mail Room

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January 31, 2012

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

RE: Ex Parte Notice: *Reliability and Continuity of Communications Networks, Including Broadband Technologies*, Notice of Inquiry, 26 FCC Rcd 5614, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (rel. Apr. 7, 2011).

Dear Ms. Dortch:

The Electrical Generating Systems Association ("EGSA") hereby submits this *ex parte* letter in connection with the *Notice of Inquiry* issued by the Federal Communications Commission ("FCC" or the "Commission") in the above-referenced proceeding.¹ This letter specifically addresses those questions raised in the *Notice of Inquiry* regarding the optimal means of ensuring the reliability and resiliency of this nation's critical communications infrastructure in emergencies, and the Commission's specific authority to promulgate regulations to that end.

EGSA is an international trade association made up of more than 800 companies throughout the United States and a dozen other countries around the world. Headquartered in Boca Raton, Florida, EGSA is the world's largest organization dedicated to On-Site Power Generation.

EGSA, under the leadership of its Board of Directors and operating through its various committees and staff, strives to educate, provide networking opportunities, and share relevant knowledge and trends with industry professionals and its members, which include manufacturers, distributor/dealers, engineers, manufacturer representatives, contractor/integrators, and others serving On-Site Power consumers.

¹ See *Reliability and Continuity of Communications Networks, Including Broadband Technologies*, Notice of Inquiry, 26 FCC Rcd 5614 (rel. Apr. 7, 2011) ("*Notice of Inquiry*").

EGSA's vision is to provide an environment where On-Site Power Generation industry experts unite and share knowledge to drive the industry to higher levels of service and performance.

EGSA member companies account for the vast majority of backup power installations serving the telecommunications and broadband markets.

EGSA concurs with several recurring themes expressed by various parties in the comments submitted to the Commission in this proceeding.

First, in order to enhance the reliability and resiliency of this nationwide infrastructure, a significantly higher percentage of sites than is currently the case must be equipped with backup power with sufficient fuel supplies. It is ironic that in today's marketplace, where we are more dependent than ever on voice and data communications, the nationwide communications infrastructure, from the standpoint of backup power, is significantly less hardened than that of the original "voice only" nationwide infrastructure. Because today's voice and data communications transmissions touch virtually every aspect of our lives, it is imperative that concrete steps be taken to ensure the reliability and resiliency of the nation's communications infrastructure. Backup power facilities are essential to achieving that objective.

Second, given the significant variation in service delivery infrastructures that exist among the industry participants, there is no easy "one size fits all" backup power solution. Even though standby generators may not be a part of the solution in some cases (such as pole mounted equipment installations), backup power sources can play a significant role in improving network reliability. Currently, only approximately 20% of wireless cell sites incorporate backup power.

Third, the voluntary action of industry participants is the most effective and preferred means of increasing the percentage of sites that feature standby power installations. EGSA hopes that industry participants will voluntarily move to enhance the reliability of their networks by installing greater numbers of standby power systems. Should this voluntary effort not materialize, however, EGSA would support efforts by the FCC to motivate and encourage the adoption of backup power supplies. The FCC has the authority to mandate such efforts pursuant to Sections 1, 214(d), and 303(r) of the Communications Act.²

² 47 U.S.C. §§ 151, 214(d), 303(r). The Commission has previously affirmed its authority under Sections 1 and 303(r) of the Communications Act to adopt rules mandating the implementation of backup power systems. See Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, *Order on Reconsideration*, 22 FCC Rcd 18013, 18020 ¶ 17 (2007). In that order, the Commission concluded that it possessed ancillary jurisdiction to adopt a backup power rule under Section 1 because the rule (i) pertains to the provisioning of "interstate and foreign commerce in communications by wire and radio" and (ii) the backup power requirement is "reasonably ancillary to the effective performance" of the FCC's responsibilities to promote public safety." Additionally, it found that it possessed authority under Section 303(r), which permits the Commission to "[m]ake such rules and regulations . . . as may be necessary to carry out the provisions of the Act." Likewise, as noted in the *Notice of Inquiry*, Section 214(d) of the Communications Act authorizes the Commission to require any carrier to provide itself with adequate facilities for the expeditions and efficient performance of its service as a common carrier." *Notice of Inquiry* at 5629 ¶ 50.

Should the Commission choose to impose regulatory mandates regarding backup power, EGSA urges it to do so deliberately and with a mind to the degree of variability and technical complexity that exists among networks and within the communications infrastructure as a whole. A slow and measured pace in adopting such regulations is considerably preferable to a hurried approach that could result in an incomplete or misguided regulatory framework.

EGSA appreciates the opportunity to comment on the issue of backup power and stands ready to assist the Commission in any way it can to facilitate most extensive deployment of backup power throughout the nation's broadband and telecommunications infrastructure. Pursuant to Section 1.1206 of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced dockets.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Jalane Kellough". The signature is fluid and cursive, with the first name "Jalane" being more prominent than the last name "Kellough".

Jalane Kellough
EGSA Executive Director